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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,624	05/11/2001	Roland De La Mettrie	05725.0414-01	5645
22852	7590	06/29/2004	EXAMINER	
FINNNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			ELHILO, EISA B	
		ART UNIT	PAPER NUMBER	
		1751		

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/852,624	Applicant(s) METTRIE ET AL.
	Examiner Eisa B Elhilo	Art Unit 1751
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
<p>THE REPLY FILED 18 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.</p>		
PERIOD FOR REPLY [check either a) or b)]		
<p>a) <input checked="" type="checkbox"/> The period for reply expires <u>8</u> months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p>		
<p>ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p>		
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>		
<p>1. <input checked="" type="checkbox"/> A Notice of Appeal was filed on <u>19 April 2004</u>. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.</p>		
<p>2. <input type="checkbox"/> The proposed amendment(s) will not be entered because:</p> <ul style="list-style-type: none"> (a) <input type="checkbox"/> they raise new issues that would require further consideration and/or search (see NOTE below); (b) <input type="checkbox"/> they raise the issue of new matter (see Note below); (c) <input type="checkbox"/> they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) <input type="checkbox"/> they present additional claims without canceling a corresponding number of finally rejected claims. 		
<p>NOTE: _____</p>		
<p>3. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p>		
<p>4. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p>		
<p>5. <input checked="" type="checkbox"/> The a)<input type="checkbox"/> affidavit, b)<input type="checkbox"/> exhibit, or c)<input checked="" type="checkbox"/> request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u>.</p>		
<p>6. <input type="checkbox"/> The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</p>		
<p>7. <input type="checkbox"/> For purposes of Appeal, the proposed amendment(s) a)<input type="checkbox"/> will not be entered or b)<input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p>		
<p>The status of the claim(s) is (or will be) as follows:</p>		
<p>Claim(s) allowed: <u>None</u>.</p>		
<p>Claim(s) objected to: <u>None</u>.</p>		
<p>Claim(s) rejected: <u>30-46</u>.</p>		
<p>Claim(s) withdrawn from consideration: <u>47-53</u>.</p>		
<p>8. <input type="checkbox"/> The drawing correction filed on _____ is a)<input type="checkbox"/> approved or b)<input type="checkbox"/> disapproved by the Examiner.</p>		
<p>9. <input type="checkbox"/> Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.</p>		
<p>10. <input type="checkbox"/> Other: _____</p>		

Brian P. Mruk
 BRIAN P MRUK
 PRIMARY EXAMINER
 TECH CENTER 1700

Art Unit: 1751

Continuation of 5. does NOT place the application in condition for allowance because: Applicant has not presented any additional data or showing to overcome the rejection of record. The arguments dated June 18, 2004 merely rehash the arguments presented earlier, which is fully responded by the examiner in previous office action on paper No. 19, dated 10/21/2003. Further, with respect to the argument that there is no reasonable expectation of success in combining the teaching of Tomura with Lim, because Tomura uses a hair dye composition that require stable solubilizing of uric acid whereas Lim does not. Also because Tomura teaches that some surfactants are not satisfactory in solubilizing uric acid and thus, no evidence has been provided that uric acid can be stably solubilized in the presence of acylsarcosinates or acylsethionates.

The examiner respectfully disagrees with the above arguments because the primary reference of Tomura suggests the use of anionic surfactants in the dyeing composition (see col. 3, lines 42-43). Further, Tomura discloses the effects of combinations of various alkalis and water-soluble polymers on stability of solubilized uric acid in water and not does teach or disclose the effect of surfactants (see col. 4, Tables 1 and 2 and col. 5, Table 3 and 4). Furthermore, Tomura clearly teaches that the dyeing composition comprises at least one surfactant (see col. 8, claim 2). Lim (US' 590) as a secondary reference clearly teaches that a combination of different surfactants may be used in the dyeing composition to impart particular viscosity and foaming-properties (see col. 39-51). Therefore, there is a sufficient motivation and reasonable expectation of success to combine the references.